



# **The ADA & Needed Accommodations**

## **Nuts and Bolts**

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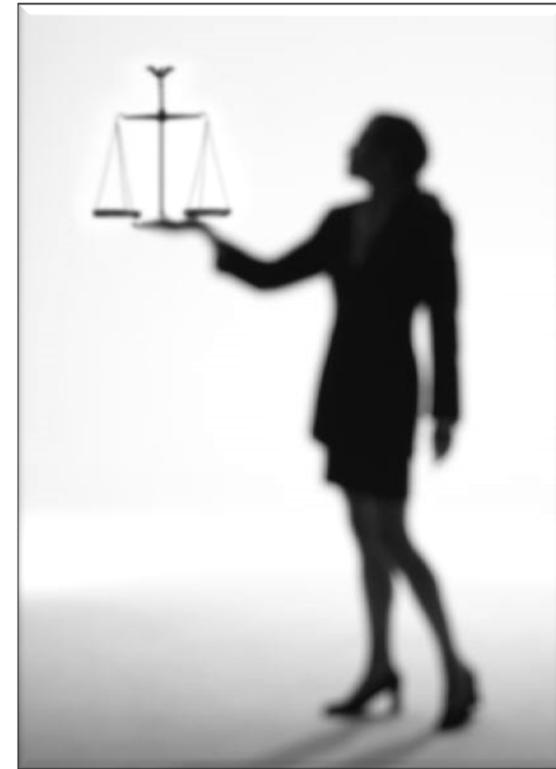


JAN is a service of the U.S. Department of Labor's  
Office of Disability Employment Policy.

# Accessible Workplaces

## Overview

- Costs and Benefits
- ADA: Big Picture
- Interactive Process
- Questions



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Practical Solutions • Workplace Success

# Nuts & Bolts

## Costs and Benefits



# Nuts & Bolts

## ADA: Big Picture

**Do not:**  
Discriminate



**Do provide:**  
Reasonable Accommodation



## JAN's Interactive Process

Step 1: Recognizing an Accommodation Request

Step 2: Gathering Information

Step 3: Exploring Accommodation Options

Step 4: Choosing an Accommodation

Step 5: Implementing the Accommodation

Step 6: Monitoring the Accommodation

SUCCESSFUL ACCOMMODATION

## Step 1: Recognizing an Accommodation Request



**Starting the Interactive Process**

## What is a reasonable accommodation request?

- An applicant or employee asks for something that is needed because of a medical condition.



## Nuts & Bolts

An employee is disciplined for poor performance. In response, she says “it’s because I have ADD and I can’t concentrate with all these distractions.”

**Is this an accommodation request?**



# Nuts & Bolts

Is this an accommodation request?

**Yes.**

- Quieter work environment is needed
- Because of a medical condition



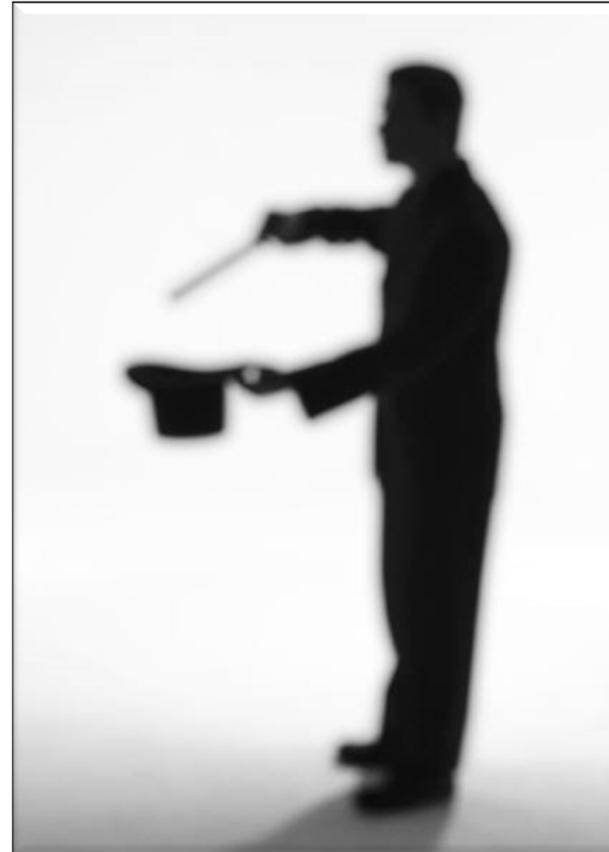


## A Word About Discrimination

# Nuts & Bolts

## What an accommodation request is not:

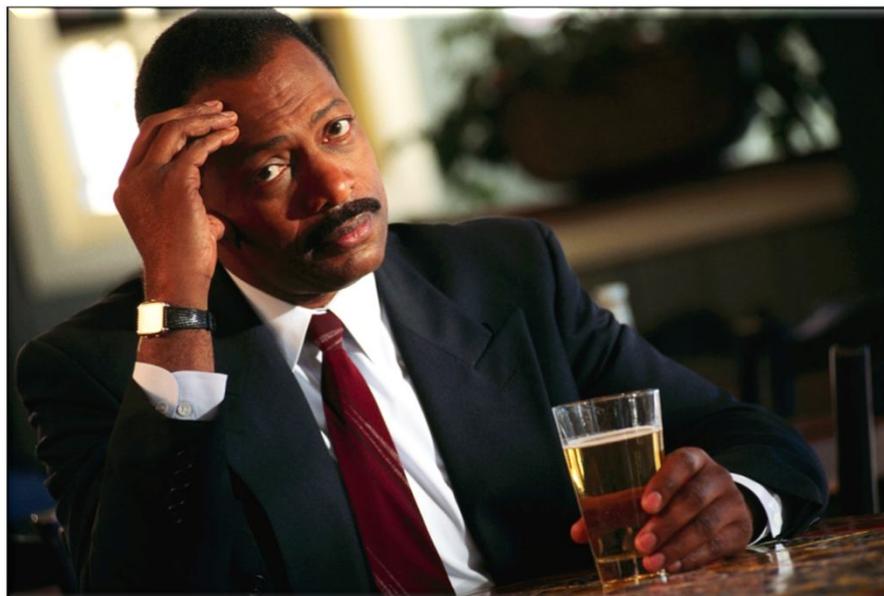
- Guess work
- Mind reading



## Nuts & Bolts

An employee comes to work smelling of alcohol. The employer confronts the employee. He admits he's been drinking.

**Is this an accommodation request?**



## Is this an accommodation request?

### No.

- No mention of underlying medical condition causing a problem at work
- “Is there anything we can do . . .”
- Refer to EAP if available



# Nuts & Bolts

## Step 1: Nuts

Missing a Request

Unnecessary Delays



## Bolts

Err on the Side of Caution  
Conduct Training

Assign Responsibility  
Act Quickly  
Streamline Procedures



## Step 2: Gathering Information



**Getting What You Need To Process the Request**

# Nuts & Bolts

## What is allowed?

- Limitations, work-related problem, accommodation ideas
- Medical documentation
  - Employee has a disability
  - Employee needs an accommodation



## Nuts & Bolts

The doctor of an employee who was not injured on the job indicates that the employee will need light duty for six weeks until his back injury heals.

**Is this enough information for us to research accommodation ideas?**



## Nuts & Bolts

Is this enough information for us to research accommodation ideas?

**No.**

- Light duty does not have specific meaning
- Do not know actual limitations



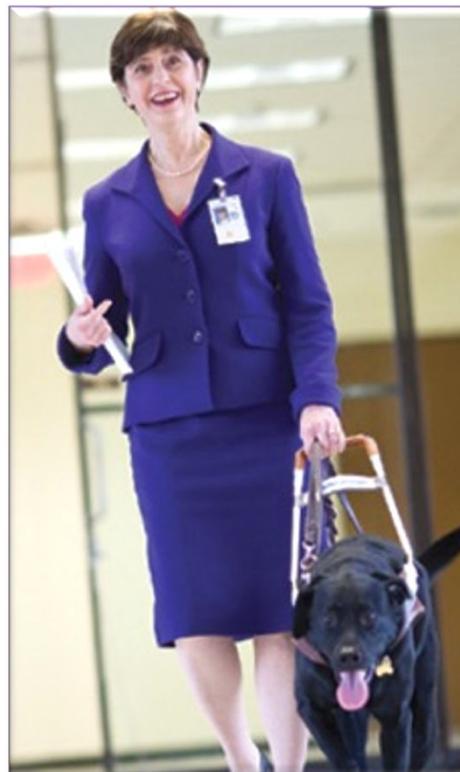


## A Word About the Definition of Disability

# Nuts & Bolts

## What is prohibited:

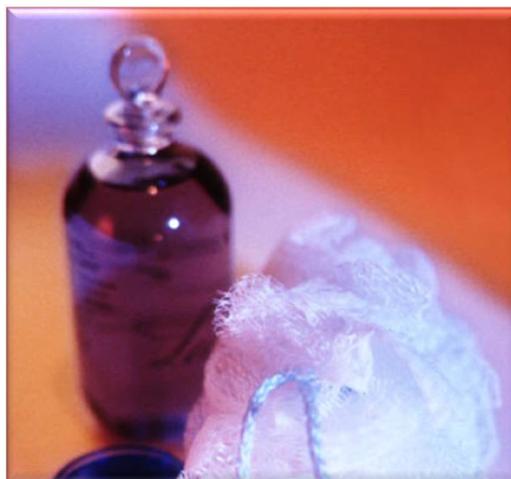
- Irrelevant information
- Information that is known or obvious



## Nuts & Bolts

In the past, an employee with multiple chemical sensitivity (MCS) asked not to have to attend face-to-face meetings in the office, but rather to attend them remotely. The employee recently asked to attend a week-long training remotely because of her MCS.

**Does the employer have all the information needed to process this request?**



## Nuts & Bolts

**Does the employer have all the information needed to process this request?**

**Yes.**

- Employer has documented a disability
- Employer has documented the need for the accommodation



# Nuts & Bolts

## Step 2: Nuts

Getting What You Need

Not Asking for Too Much



## Bolts

What, Why, How

Do You Already Have It?  
Why Do You Need It?



## Step 3: Exploring Accommodation Options



**Figuring Out What Accommodations Might Work**

# Nuts & Bolts

## What should you do?

- Brainstorm
- Think outside the box
- Talk with the employee
- Use available resources



## Nuts & Bolts

A child therapist wanted to continue working while undergoing treatment for cancer. Because of her treatment she had a suppressed immune system and her doctor recommended she wear a mask while working. She found a mask that did not interfere with her speech, but found out that it frightened some of the young children she worked with. It looked like she might have to take leave time until finished with treatment.

**What might she or her employer do?**

# Nuts & Bolts

What might she or her employer do?

## Call JAN!

- Mask with cartoons
- Met employee's needs and allowed her to perform her job





## A Word About Reasonable Accommodation

# Nuts & Bolts

## What should you not do?

- Say “this is not how we do it”
- Rigidly stick to policies
- Not listen to anyone else



## Nuts & Bolts

A new supervisor decided that none of her employees would be allowed to work at home anymore. One employee asked to continue working at home during flare-ups of her gastrointestinal disorder. The new supervisor said “No, the new policy is no one works at home. You can take leave time.”

**Is this okay?**



# Nuts & Bolts

Is this okay?

**Probably not.**

- Rigidly stuck to policy
- Did not consider other options
- Insisted on leave



# Nuts & Bolts

## Step 3: Nuts

Saying “NO” Too Quickly

No Ideas



## Bolts

Forget Laws

Forget Policies

Focus on What Could Work

Ask the Employee

Ask the Doctor

Ask JAN



## Step 4: Choosing an Accommodation



**Exercising Your Prerogative**

# Nuts & Bolts

## Consider:

- Employee's preference
- Business needs



## Nuts & Bolts

A newly hired accountant is deaf and asked to bring his service dog to work. The dog alerts him to various sounds. However, he has to meet with co-workers regularly and one of them is severely allergic to dogs. The employer is considering installing visual alarms and computer notification software instead of allowing the new hire to bring in his service dog.

**Do you think this is the best approach?**



Do you think this is the best approach?

## Might be able to compromise:

- Allow service dog
- Consider having some meetings remotely
- Leave service dog in secure area when face-to-face meetings
- Separate offices and establish route of travel





## A Word About Undue Hardship

# Nuts & Bolts

## Do not consider:

- Co-worker morale
- Customer preference
- Power struggles



## Nuts & Bolts

An employee with an anxiety disorder was promoted to a new job. Her new supervisor's management style is fast-paced and she tends to loudly shout out assignments rather than sitting down with employees or sending them emails, which is exacerbating the employee's anxiety disorder. She responds by shouting back at the supervisor "you need to go get some training about how to manage people, you are causing me anxiety." The supervisor responds "get used to it or go get some drugs if you can't handle your job." They both end up in your office.

**Now what?**

# Nuts & Bolts

## Now what?

- Keep ADA obligations in mind
- Modifying supervisory methods = form of reasonable accommodation
- Forcing employee to get treatment ≠ form of reasonable accommodation
- You may need to be a referee



# Nuts & Bolts

## Step 4: Nuts

Avoiding Power Struggles

Avoiding Co-worker  
Problems



Not Knowing If  
Accommodation Will Work

## Bolts

Have a Neutral Person

Be a Manager  
Do General Awareness  
Training  
Let Employee Discuss  
Disability

Try It!



## Step 5: Implementing the Accommodation



**Taking Steps Necessary to Make Accommodation Work**

# Nuts & Bolts

## May involve:

- Purchasing and installing equipment
- Ordering a service
- Training
- Notifying those who need to know



## Nuts & Bolts

An employee was given permission to park in a accessible (“handicap”) customer parking space. The employer decided not to tell the parking office because of ADA confidentiality rules.

**Is this the right approach?**



Is this the right approach?

**No.**

- Parking office needs to know
- Limit details





## A Word About Confidentiality

# Nuts & Bolts

## Does not involve:

- Telling co-workers



# Nuts & Bolts

An employee with sleep apnea asks to change her schedule so she comes in 30 minutes later than other employees and then takes a shorter lunch to make up the time. Other employees notice this change and ask for a schedule modification too.

**What can you do?**



## What can you do?

- Start allowing all employees to have flexible schedules?
- Deny the requests, but do not violate confidentiality rules?
- Ask the employee if she would like to tell her coworkers?



# Nuts & Bolts

## Step 5: Nuts

Making Sure It Works

Communicating as Needed



## Bolts

Test It!

Use Good Management Techniques



## Step 6: Monitoring the Accommodation



**Making Sure the Accommodation Continues To Be Effective**

# Nuts & Bolts

## Do:

- Establish open lines of communication
- Check with the employee periodically
- Take responsibility for maintenance and updates



## Nuts & Bolts

A nurse had allergies to substances used in one type of diagnostic test. The test was done infrequently so she had been informally allowed to trade duties with other nurses when the test had to be administered. A new supervisor wasn't notified about the situation and when the nurse refused to help with the test, the new supervisor reprimanded her and then placed her on leave, stating that the nurse was not qualified for her job.

**How could this have been better handled?**

# Nuts & Bolts

## How could this have been better handled?

- Even informal accommodations should be documented
- New supervisors and managers need to be trained
- Inform new supervisors and managers as needed





## A Word About New Managers and Supervisors

# Nuts & Bolts

## Do not:

- Make employee jump through unnecessary hoops
- Ask for medical updates you do not need



## Nuts & Bolts

An employer implements an accommodation process that requires employees to recertify their disability and need for accommodation annually to make sure the accommodations are still needed and still effective.

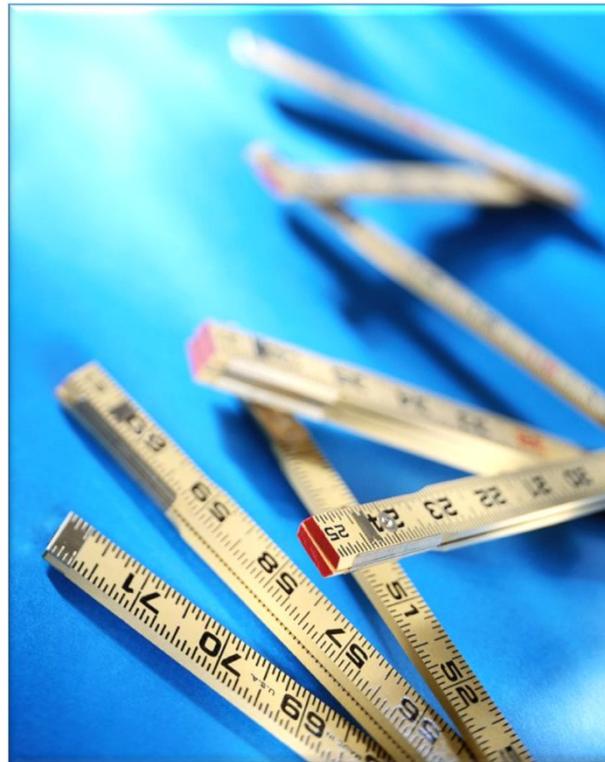
**Is this okay?**



# Nuts & Bolts

## Is this okay?

- Depends on whether the information is necessary
- Mandatory rule with set time frame probably not okay



# Nuts & Bolts

## Step 6: Nuts

Keeping Accommodations Working

Effectively Communicating



## Bolts

Communicate Effectively  
Assign Responsibility

Announce, Publish,  
Repeat, Be Responsive



# Reasonable Accommodation



## Contact

- (800)526-7234 (V) & (877)781-9403 (TTY)
- AskJAN.org & jan@askjan.org
- (304)216-8189 via Text
- janconsultants via Skype

